



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA-HQ-OPPT-2022-0387; FRL-9529-02-OCSPP]

RIN 2070-AL09

Community Right-To-Know; Adopting 2022 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing updates to the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2022 NAICS code revision. OMB updates the NAICS codes every five years. EPA is implementing the 2022 codes for TRI Reporting Year 2022 (*i.e.*, facilities reporting to TRI are required to use 2022 NAICS codes on reports that are due to the Agency by July 1, 2023). The actual data required by a TRI form does not change as a result of this rulemaking, nor does the rule affect the universe of TRI reporting facilities that are required to submit reports to the Agency under the Emergency Planning and Community Right-to-Know Act (EPCRA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2022-0387, is available online at <https://www.regulations.gov> or in-person at the Office of Pollution Prevention and Toxics (OPPT) Docket, Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading

Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Rachel Dean, Data Collection Branch, Data Gathering and Analysis Division (Mail code: 7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 566-1303; email address: dean.rachel@epa.gov.

For general information contact: The Emergency Planning and Community Right-to-Know Information Center; telephone number: (800) 424-9346 or (703) 348-5070 in the Washington, DC Area and International; Web site: <https://www.epa.gov/aboutepa/epa-hotlines>.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you own or operate facilities that have 10 or more full-time employees or the equivalent of 20,000 employee hours per year that manufacture, process, or otherwise use toxic chemicals listed on the TRI, and that are required under section 313 of EPCRA or section 6607 of the Pollution Prevention Act (PPA) to report annually to EPA and States or Tribes their environmental releases or other waste management quantities of covered chemicals. (A rule was published on April 19, 2012 (77 FR 23409; FRL-9660-9), requiring facilities located in Indian country to report to the appropriate tribal government official and EPA instead of to the state and EPA.)

The following list of 2017 North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to

Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 113310, 211130* (corresponds to SIC 2819), 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512230*, 512250*, 519130*, 541713*, 541715*, or 811490*.

(*Exceptions and/or limitations exist for these NAICS codes.)

- Facilities included in the following NAICS manufacturing codes (corresponding to SIC codes other than 20-39): 211130 (corresponds to SIC code 1321); or 212111, 212112, 212113, (corresponds to SIC code 12, Coal Mining (except 1241)); 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 22111*, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, Not Elsewhere Classified)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).

(*Exceptions and/or limitations exist for these NAICS codes.)

- Federal facilities.
- Facilities that the EPA Administrator has specifically required to report to TRI pursuant to a determination under EPCRA section 313(b)(2).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What is the Agency's authority for taking this action?

EPA is taking this action under EPCRA sections 313(g)(1) and 328, 42 U.S.C. 11023(g)(1) and 11048. In general, EPCRA section 313 requires owners and operators of covered facilities in specified SIC codes that manufacture, process, or otherwise use listed toxic chemicals in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. EPCRA section 313(g)(1) requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 authorizes EPA to “prescribe such regulations as may be necessary to carry out this chapter.” 42 U.S.C. 11048.

C. Why is EPA taking this action?

In the *Federal Register* of April 9, 1997 (62 FR 17288), OMB published a final decision to adopt the NAICS economic classification system, replacing the Standard Industry Classification (SIC) system which had traditionally been used by the Federal Government for collecting and organizing industry-related statistics. Consistent with EPCRA section 313 and PPA section 6607, on June 6, 2006, EPA amended 40 CFR part 372 to change TRI reporting from requiring SIC codes to requiring NAICS codes (71 FR 32464; FRL-8180-2) (Ref. 1). This amendment to the regulation included the 2002 NAICS codes for TRI reporting. OMB revises the NAICS codes every five years. Therefore, EPA subsequently updated the NAICS codes in:

- June 9, 2008 (73 FR 32466; FRL-8577-1) to include the 2007 codes,
 - July 18, 2013 (78 FR 42875; FRL-9825-8) (Ref. 2) to include the 2012 NAICS codes,
- and
- December 26, 2017 (82 FR 60906; FRL-9970-02) to include the 2017 NAICS codes.

In the *Federal Register* of December 21, 2021, OMB announced updated NAICS codes

for 2022 (86 FR 72277). With this final rule, EPA is amending 40 CFR part 372 to reflect OMB's updated 2022 NAICS codes.

NAICS codes are used by EPA's TRI program, which provides the ability to track releases and other waste management activities (among other information) of chemicals by a sector and/or facility basis. This detailed information is made public so that community members, industrial facilities, research organizations, and federal government can make informed decisions that impact human health and the environment. Also, comparative analysis by sector or facility can demonstrate the volume of a specific chemical released to air, water, and land. In addition, NAICS codes help provide a snapshot of pollution prevention efforts at each facility by demonstrating results of toxic emissions reductions across industry sectors.

D. What action is the Agency taking?

Given OMB's revisions to the NAICS codes that became effective January 1, 2022, EPA is amending 40 CFR part 372 to update the 2022 NAICS codes for TRI reporting. In addition, EPA is including NAICS codes in 40 CFR part 372 for facilities that are covered under TRI's SIC codes but had been inadvertently excluded in past TRI NAICS rulemakings. EPA is also updating the CFR to account for the discretionary authority provision provided in EPCRA section 313(b)(2) (42 U.S.C. 11023(b)(2)). Lastly, EPA is updating 40 CFR part 372.22(b) to reflect the revised codes and TRI reporting years for which the 2022 NAICS codes are applicable.

E. What are the incremental impacts of this action?

EPA analyzed the potential costs and benefits associated with this action and determined that since this action will not add or remove any reporting requirements, there is no net increase in respondent burden or other economic impacts to consider.

II. Background

A. What did EPA propose?

In a proposed rule issued in July 2022 (Ref. 3), EPA proposed to update the list of

NAICS codes subject to TRI reporting to reflect OMB 2022 NAICS code revision. EPA did not propose changes to the TRI reporting requirements.

B. Did EPA receive any public comments?

The Agency received one comment on the proposed rule, which expressed general support for the updates.

III. Summary of the Final Rule

With this action, EPA is finalizing the proposed updates to the NAICS codes with a few corrections as discussed in this unit.

A. NAICS codes updated to conform with the 2022 NAICS code modifications.

Due to the 2022 NAICS code modifications, some facilities will need to modify their reported NAICS codes as outlined in Table 1, which identifies only the revised TRI NAICS reporting codes and is not an exhaustive list of all NAICS reporting codes subject to EPCRA section 313 and PPA section 6607. Table 1 also includes notes where a 2022 NAICS code is the result of merging 2017 NAICS codes. In those cases, EPA is clarifying which subset of the 2022 NAICS code is covered by TRI. (Note that non-TRI-covered NAICS codes are not listed in the table.) A complete listing of all TRI-covered facilities can be found in the regulations at 40 CFR 372.23.

Table 1. Modified TRI Reporting NAICS Codes.

2017 NAICS code	2017 NAICS and U.S. description	2022 NAICS code	2022 NAICS and U.S. description
212111	Bituminous Coal and Lignite Surface Mining	212114	Surface Coal Mining
212112	Bituminous Coal Underground Mining	212115	Underground Coal Mining
212113	Anthracite Mining – <i>anthracite surface mining</i> activity	212114	Surface Coal Mining
212113	Anthracite Mining – <i>anthracite underground mining</i> activity	212115	Underground Coal Mining
212221	Gold Ore Mining	212220	Gold Ore and Silver Ore Mining
212222	Silver Ore Mining	”	”
212299	All Other Metal Ore Mining	212290	Other Metal Ore Mining <i>This merges both TRI-covered and non-TRI-covered NAICS codes. Only</i>

			<i>212299: All Other Metal Ore Mining was covered by TRI. TRI notes that only “All Other Metal Ore Mining” facilities under NAICS code 212290 are required to report.</i>
212324	Kaolin and Ball Clay Mining	212323	Kaolin, Clay, and Ceramic and Refractory Minerals Mining
212325	Clay and Ceramic and Refractory Minerals Mining	”	”
212393	Other Chemical and Fertilizer Mineral Mining	212390	Other Nonmetallic Mineral Mining and Quarrying
212399	All Other Nonmetallic Mineral Mining	”	” <i>This merges both TRI-covered and non-TRI-covered NAICS codes. Only 212393 and 212399 were covered by TRI. TRI notes that only “Other Chemical and Fertilizer Mineral Mining” and “All Other Nonmetallic Mineral Mining” facilities under NAICS code 212390 are required to report.</i>
315110	Hosiery and Sock Mills	315120	Apparel Knitting Mills
315190	Other Apparel Knitting Mills	”	”
315220	Men’s and Boys’ Cut and Sew Apparel Manufacturing	315250	Cut and Sew Apparel Manufacturing (except Contractors)
315240	Women’s, Girls’, and Infants’ Cut and Sew Apparel Manufacturing	”	”
315280	Other Cut and Sew Apparel Manufacturing	”	”
316992	Women’s Handbag and Purse Manufacturing	316990	Other Leather and Allied Product Manufacturing
316998	All Other Leather Good and Allied Product Manufacturing	”	”
321213	Engineered Wood Member (except Truss) Manufacturing	321215	Engineered Wood Member Manufacturing
321214	Truss Manufacturing	”	”
322121	Paper (except Newsprint) Mills	322120	Paper Mills
322122	Newsprint Mills	”	”
325314	Fertilizer (Mixing Only) Manufacturing	325314	Fertilizer (Mixing Only) Manufacturing
		325315	Compost Manufacturing
333244	Printing Machinery Equipment Manufacturing	333248	All Other Industrial Machinery Manufacturing
333249	Other Industrial Machinery Manufacturing	”	”
333314	Optical Instrument and Lens Manufacturing	333310	Commercial and Service Industry Machinery Manufacturing
333316	Photographic and Photocopying Equipment Manufacturing	”	”

333318	Other Commercial and Service Industry Machinery Manufacturing	”	”
333997	Scale and Balance Manufacturing	333998	All Other Miscellaneous General Purpose Machinery Manufacturing
333999	All Other Miscellaneous General Purpose Machinery Manufacturing	”	”
334613	Blank Magnetic and Optical Recording Media Manufacturing	334610	Manufacturing and Reproducing Magnetic and Optical Media
334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing	”	”
335110	Electric Lamp Bulb and Part Manufacturing	335139	Electric Lamp Bulb and Other Lighting Equipment Manufacturing
335121	Residential Electric Lighting Fixture Manufacturing	335131	Residential Electric Lighting Fixture Manufacturing
335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing	335132	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing
335129	Other Lighting Equipment Manufacturing	335139	Electric Lamp Bulb and Other Lighting Equipment Manufacturing
335911	Storage Battery Manufacturing	335910	Battery Manufacturing
335912	Primary Battery Manufacturing	”	”
336111	Automobile Manufacturing	336110	Automobile and Light Duty Motor Vehicle Manufacturing
336112	Light Truck and Utility Vehicle Manufacturing	”	”
337124	Metal Household Furniture Manufacturing	337126	Household Furniture (except Wood and Upholstered) Manufacturing
337125	Household Furniture (except Wood and Metal) Manufacturing	”	”
425110	Business to Business Electronic Markets	425120	Wholesale Trade Agents and Brokers
511110	Newspaper Publishers	513110	Newspaper Publishers
511120	Periodical Publishers	513120	Periodical Publishers
511130	Book Publishers	513130	Book Publishers
511140	Directory and Mailing List Publishers	513140	Directory and Mailing List Publishers
511191	Greeting Card Publishers	513191	Greeting Card Publishers
511199	All Other Publishers	513199	All Other Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Internet Newspaper Publishers</i> activity	513110	Newspaper Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Internet Periodical Publishers</i> activity	513120	Periodical Publishers

519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Internet Book Publishers</i> activity	513130	Book Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Internet Directory and Mailing List Publishers</i> activity	513140	Directory and Mailing List Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals for <i>Internet Greeting Card Publishers</i> activity	513191	Greeting Card Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals for <i>All other Internet Publishers</i> activity	513199	All Other Publishers
519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Internet Broadcasting</i> activity	516210	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers <i>This merges both TRI-covered and non-TRI-covered NAICS codes. Only 519130: Internet Publishing and Broadcasting and Web Search Portals was covered by TRI. TRI notes that only certain “Internet Broadcasting” facilities under NAICS code 516210 are required to report.</i>
519130	Internet Publishing and Broadcasting and Web Search Portals – <i>Web Search Portals</i> activity	519290	Web Search Portals and All Other Information Services <i>This merges both TRI-covered and non-TRI-covered NAICS codes. Only 519130: Internet Publishing and Broadcasting and Web Search Portals was covered by TRI. TRI notes that only certain “Web Search Portals” facilities under NAICS code 519290 are required to report.</i>

B. Listing of certain NAICS codes in the utilities industry sector.

Additionally, EPA is finalizing the listing of the following NAICS manufacturing codes at 40 CFR 372.23 that are subject to TRI reporting requirements: 221114 – Solar Electric Power Generation; 221115 – Wind Electric Power Generation; 221116 – Geothermal Electric Power Generation; and 221117 – Biomass Electric Power Generation). In 1997, when EPA added the electric utility industry sector to the scope of the TRI, the Agency qualified the addition to

include all facilities which “burn any quantity of coal or oil to generate power for distribution in commerce.” (62 FR 23834, May 1, 1997; FRL-5578-3) (Ref. 4). Further, the Agency clearly stated that this addition includes any facility classified under SIC codes 4911, 4931, or 4939 that combusts coal and/or oil for the purpose of generating power for distribution in commerce. EPA clearly stated that this coverage includes a facility that burns “any quantity” of coal or oil to generate power for distribution in commerce, noting examples where a facility might burn coal or oil for purposes other than distribution in commerce and thus not fit the qualifier provided for the industry sector. (62 FR 23834, 23863) (Ref. 4).

The 2007 NAICS to 2012 NAICS revision split NAICS 221119 (a NAICS code at the time covered by TRI due to its crosswalk to SIC codes 4911, 4931, and 4939) into multiple codes (i.e., 221114, 221115, 221116, 221117, and 221118). When EPA updated the set of 2007 NAICS codes used by TRI to conform to the 2012 NAICS revision, the Agency listed only 221118, neglecting to include 221114, 221115, 221116, and 221117. (78 FR 42875) (Ref. 2). However, as provided by the 1997 rule that included electricity generating facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce, these NAICS codes should have been included in the CFR. Further, because the CFR lists SIC codes 4911, 4931, and 4939 as being regulated by TRI, facilities in NAICS codes 221114, 221115, 221116, and 221117 are regulated by TRI should they combust coal and/or oil for the purpose of generating power for distribution in commerce despite the Agency’s oversight in terms of failing to list these NAICS codes in the CFR. Therefore, facilities identifying with these NAICS codes (i.e., 221114, 221115, 221116, and 221117) are covered under TRI reporting regulation and EPA is addressing its previous oversight by adding these NAICS codes to 40 CFR 372.23.

Similarly, in the 2006 rule to include NAICS codes in the regulations for TRI, EPA neglected to include NAICS code 221210. SIC codes 4931 and 4939 are covered TRI reporting codes (40 CFR 372.23(b), 62 FR 23834). Both of these SIC codes crosswalk to multiple NAICS codes which are listed on the CFR, except for 221210. EPA acknowledges it was an oversight

not to include 221210 in the 2006 rule adopting NAICS codes for TRI reporting (71 FR 32464) (Ref. 1) and is adding 221210 to 40 CFR 372.23 for this NAICS update rule.

Crosswalk tables between all 2017 NAICS codes and 2022 NAICS codes can be found on the Internet at <https://www.census.gov/naics/>.

C. Updates to 40 CFR part 372 to accommodate EPCRA section 313(b)(2).

As authorized under EPCRA section 313(b)(2), the EPA Administrator may determine that a particular facility is subject to the requirements of EPCRA section 313(a) on the basis of the toxicity of a chemical, the facility's proximity to other facilities that release the chemical or to population centers, the history of releases of the chemical at the facility, or other factors the Administrator deems appropriate. This authority has been codified previously in TRI regulations, describing the process for modifying the list of covered facilities (40 CFR 372.20(b)). EPA is codifying this discretionary authority at 40 CFR 372.22, which describes the criteria to determine whether a facility must report to TRI for a certain calendar year. This edit is a conforming edit to accommodate the longstanding discretionary authority under EPCRA section 313(b)(2), and this edit does not alter the universe of EPCRA section 313 reporters or any TRI reporting requirements. This additional criteria for facilities reporting to TRI will be added to 40 CFR 372.22.

D. Updates to 40 CFR 372.22(b).

EPA is finalizing conforming edits at 40 CFR 372.22(b), which identifies the NAICS code version to use for TRI reporting purposes. The finalized language reflects the updated version of NAICS codes and the TRI reporting years for which they are applicable. The proposed regulatory text that accompanied the notice of proposed rulemaking did not reflect this conforming edit which is needed to reflect the revised codes and TRI reporting years for which the 2022 NAICS codes are applicable. Accordingly, this final rule also updates the NAICS code versions and reporting years listed at 40 CFR 372.22(b).

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. U.S. EPA. Community Right-to-Know; Toxic Chemical Release Reporting Using North American Industry Classification System (NAICS); Final Rule. *Federal Register*. 71 FR 32464, June 6, 2006 (FRL-8180-2).

2. U.S. EPA. Community Right-to-Know; Adoption of 2012 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Final Rule. *Federal Register*. 78 FR 42875, July 18, 2013 (FRL-9825-8).

3. U.S. EPA. Community Right-To-Know; Adopting 2022 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Proposed Rule. *Federal Register*. 87 FR 43772, July 22, 2022 (FRL-9529-01-OCSP).

4. U.S. EPA. Addition of Facilities in Certain Industry Sectors; Revised Interpretation of Otherwise Use; Toxic Release Inventory Reporting; Community Right-to-Know; Final Rule. *Federal Register*. 62 FR 23834, May 1, 1997 (FRL-5578-3).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Facilities that are affected by the rule are already required to report their industrial classification codes on the approved reporting forms under EPCRA section 313 and PPA section 6607. In addition, OMB has previously approved the information collection activities involving Form R and Form A as contained in 40 CFR part 372 under OMB Control No. 20070–0212 (EPA ICR No. 2613.04).

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the *Federal Register* or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because this rule has no net burden on the small entities subject to the rule. This rule adds no new reporting requirements and there is no net increase in respondent burden and costs. This rule only updates the NAICS codes already reported by respondents and makes other conforming edits to the existing regulation. As such, this action will not impose any new requirements on small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not impose substantial direct compliance costs on Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866 and has not otherwise been designated as a significant energy action by the Administrator of the Office of Information and Regulatory Affairs.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations. EPA believes that updating the list of NAICS codes subject to TRI reporting does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: November 15, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons set forth in the preamble, 40 CFR chapter I is amended as follows:

PART 372 - TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

2. Amend § 372.22 by revising the introductory text, paragraph (b), and adding paragraph (d) to read as follows:

§ 372.22 Covered facilities for toxic chemical release reporting.

A facility is a covered facility for a particular calendar year, and must report under § 372.30, if the facility meets either all of the criteria in paragraphs (a), (b), and (c) of this section, or all of the criteria in paragraphs (c) and (d) of this section, for that calendar year.

* * * * *

(b) The facility is in a Standard Industrial Classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2022, for reporting year 2022 and thereafter) subsector and industry codes are listed in §§ 372.23(b) and 372.23(c) by virtue of the fact that it meets one of the following criteria:

* * * * *

(d) The Administrator determined that applying the 42 U.S.C. 11023 requirements to the facility was warranted, pursuant to 42 U.S.C. 11023(b)(2) and § 372.20(b).

3. Amend § 372.23 by revising paragraphs (b) and (c) to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

* * * * *

(b) NAICS codes that correspond to SIC codes 20-39.

311 – Food Manufacturing	Except 311119 – Exception is limited to facilities previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning.
	Except 311340 – Exception is limited to facilities previously classified under SIC 5441, Candy, Nut, and Confectionery Stores.
	Except 311352 – Exception is limited to facilities previously classified under SIC 5441, Candy, Nut, and Confectionery Stores.
	Except 311611 – Exception is limited to facilities previously classified under SIC 0751, Livestock Services, Except Veterinary.
	Except 311612 – Exception is limited to facilities previously classified under SIC 5147, Meats and Meat Products.
	Except 311811 – Exception is limited to facilities previously classified under SIC 5461, Retail Bakeries.
312 – Beverage and Tobacco Product Manufacturing	Except 312112 – Exception is limited to facilities previously classified under SIC 5149, Groceries and Related Products, Not Elsewhere Classified.
	Except 312230 – Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis.
313 – Textile Mills	Except 313310 – Exception is limited to facilities previously classified under SIC 5131, Piece Goods, Notions, and Other Dry Goods; and facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis.
314 – Textile Product Mills	Except 314120 – Exception is limited to facilities previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores.
	Except 314999 – Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis.
315 – Apparel Manufacturing	Except 315290 – Exception is limited to facilities previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores.
316 – Leather and Allied Product Manufacturing	
321 – Wood Product Manufacturing	
322 – Paper Manufacturing	
323 – Printing and Related Support Activities	Except 323111 – Exception is limited to facilities previously classified under SIC 7334, Photocopying and Duplicating Services.

324 – Petroleum and Coal Products Manufacturing	
325 – Chemical Manufacturing	Except 325998 – Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified.
326 – Plastics and Rubber Products Manufacturing	Except 326212 – Exception is limited to facilities previously classified under SIC 7534, Tire Retreading and Repair Shops.
327 – Nonmetallic Mineral Product Manufacturing	Except 327110 – Exception is limited to facilities previously classified under SIC 5719, Miscellaneous Home Furnishings Stores.
331 – Primary Metal Manufacturing	
332 – Fabricated Metal Product Manufacturing	
333 – Machinery Manufacturing	
334 – Computer and Electronic Product Manufacturing	Except 334610 – Exception is limited to facilities previously classified under SIC 7372, Prepackaged Software; and to facilities previously classified under SIC 7819, Services Allied to Motion Picture Production.
335 – Electrical Equipment, Appliance, and Component Manufacturing	Except 335312 – Exception is limited to facilities previously classified under SIC 7694, Armature Rewinding Shops.
336 – Transportation Equipment Manufacturing	
337 – Furniture and Related Product Manufacturing	Except 337110 – Exception is limited to facilities previously classified under SIC 5712, Furniture Stores.
	Except 337121 – Exception is limited to facilities previously classified under SIC 5712, Furniture Stores.
	Except 337122 – Exception is limited to facilities previously classified under SIC 5712, Furniture Stores.
339 – Miscellaneous Manufacturing	Except 339113 – Exception is limited to facilities previously classified under SIC 5999, Miscellaneous Retail Stores, Not Elsewhere Classified.
	Except 339115 – Exception is limited to lens grinding facilities previously classified under SIC 5995, Optical Goods Stores.
	Except 339116 – Exception is limited to facilities previously classified under SIC 8072, Dental Laboratories.
111998 – All Other Miscellaneous Crop Farming	Limited to facilities previously classified under SIC 2099, Food Preparations, Not Elsewhere Classified.
113310 – Logging	
211130 – Natural Gas Extraction	Limited to facilities that recover sulfur from natural gas and previously classified under SIC 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified.
212323 - Kaolin, Clay, and Ceramic and Refractory Minerals Mining	Limited to facilities operating without a mine or quarry and previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated.
212390 - Other Nonmetallic Mineral Mining and Quarrying	Limited to facilities previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated.

488390 – Other Support Activities for Water Transportation	Limited to facilities previously classified under SIC 3731, Shipbuilding and Repairing.
512230 – Music Publishers	Except facilities previously classified under SIC 8999, Services, Not Elsewhere Classified.
512250 – Record Production and Distribution	Limited to facilities previously classified under SIC 3652, Phonograph Records and Prerecorded Audio Tapes and Disks.
5131 – Newspaper, Periodical, Book, and Directory Publishers	Except for facilities primarily engaged in web search portals and except for facilities previously classified under SIC 7331, Direct Mail Advertising Services and SIC 8999, Services Not Elsewhere Classified.
516210 - Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers	Limited to Internet publishing facilities previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing; facilities previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing; facilities previously classified under SIC 2731, Books: Publishing, or Publishing and Printing; facilities previously classified under SIC 2741, Miscellaneous Publishing; facilities previously classified under SIC 2771, Greeting Cards; Except for facilities primarily engaged in web search portals.
519290 - Web Search Portals and All Other Information Services	Limited to Internet publishing facilities previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing; facilities previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing; facilities previously classified under SIC 2731, Books: Publishing, or Publishing and Printing; facilities previously classified under SIC 2741, Miscellaneous Publishing; facilities previously classified under SIC 2771, Greeting Cards; Except for facilities primarily engaged in web search portals.
541713 – Research and Development in Nanotechnology	Limited to facilities previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts; and facilities previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified.
541715 – Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology)	Limited to facilities previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts; and facilities previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified.
811490 – Other Personal and Household Goods Repair and Maintenance	Limited to facilities previously classified under SIC 3732, Boat Building and Repairing.

(c) NAICS codes that correspond to SIC codes other than SIC codes 20-39.

211130 – Natural Gas Extraction	Limited to facilities classified under SIC 1321, Natural Gas Liquids.
212114 – Surface Coal Mining	

212115 – Underground Coal Mining	
212220 – Gold Ore and Silver Ore Mining	
212230 – Copper, Nickel, Lead and Zinc Mining	
212290 - Other Metal Ore Mining	Limited to facilities previously classified under SIC 1061, Ferroalloy Ores, Except Vanadium (nickel); and facilities previously classified under SIC 1099, Miscellaneous Metal Ores, Not Elsewhere Classified.
221111 - Hydroelectric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221112 - Fossil Fuel Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221113 - Nuclear Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221114 - Solar Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221115 - Wind Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221116 - Geothermal Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221117 - Biomass Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221118 - Other Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221121 - Electric Bulk Power Transmission and Control	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221122 - Electric Power Distribution	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221210 – Natural Gas Distribution	Limited to facilities previously classified under SIC 4931, Electric and Other Services Combined and facilities previously classified under SIC 4939, Combination Utilities, Not Elsewhere Classified.
221330 - Steam and Air Conditioning Supply	Limited to facilities previously classified under SIC 4939, Combination Utilities, Not Elsewhere Classified.
424690 - Other Chemical and Allied Products Merchant Wholesalers	
424710 - Petroleum Bulk Stations and Terminals	
425120 - Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112 - Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis and previously classified under SIC 7389, Business Services, Not Elsewhere Classified;
562211 - Hazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 <i>et seq.</i>

562212 - Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 <i>et seq.</i>
562213 - Solid Waste Combustors and Incinerators	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 <i>et seq.</i>
562219 - Other Nonhazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 <i>et seq.</i>
562920 - Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 <i>et seq.</i>

* * * * *

[FR Doc. 2022-25375 Filed: 11/25/2022 8:45 am; Publication Date: 11/28/2022]